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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/648,908

08/25/2000

Lester B. Shupe

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08/25/2004

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EXAMINER

D AGOSTA, STEPHEN M

ART UNIT

PAPER NUMBER

2683

DATE MAILED: 08/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Advisory Action</b>	<b>Application No.</b> 09/648,908	<b>Applicant(s)</b> SHUPE ET AL.	
	<b>Examiner</b> Stephen M. D'Agosta	<b>Art Unit</b> 2683	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 21 June 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. **ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).**

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 1-29.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_

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Continuation of 5. does NOT place the application in condition for allowance because: the applicant's arguments do not sway the examiner. The applicant argues that Morin does not teach "without prompting by the MSC". 1) The examiner disagrees since the connection cited by the applicant is NOT prompting by the MSC, but rather an authentication/logon operation that occurs when a mobile either is powered on OR roams to another location. The claims specify that the MSC never prompts when a profile update occurs, but Morin automatically updates the MSC (without prompting) when it determines that a service is not available. Thus the examiner believes that the claims are written too broadly and do not rule out the examiner's interpretation of Morin. The examiner suggests further clarification (eg. amending) of the claims to ensure that the claims do not read on Morin. to reiterate the examiner's previous argument: The applicant argues that prompting from the MSC is taught. The examiner disagrees. The applicant's independent claims are focused on "automatically updating an MSC with a change in the subscriber's profile". The examiner notes that Morin teaches a registration process whereby the HLR automatically updates a profile as need be without prompting from the MSC. The examiner must broadly interpret all claims put

before him at the PTO and the examiner interprets the applicant's claim in the broadest sense, ie. Is the MSC in Morin's patent asking the HLR to update the user's profile. The answer is NO since the MSC is only requesting that a service profile be sent.

Secondly, the examiner notes that Morin's patent compares the user's service profile to services offered by the MSC and will automatically update the service profile to be as-close-as-possible to the MSC'S offered services, which again is performed without MSC prompting. Therefore the examiner will stand firm on this point and believes the applicant must amend their claim language to set themselves apart from Morin (as well as Franks and Vuoristo previously included but not cited). 2) With regard to claim 1 reciting "generating a request to the SLR", any/all SLR's (eg. HLR or VLR) are included and are supported in the prior art on record. Hence, their disclosure of HLR/VLR updates without prompting is valid based on Morin's teachings.



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